

**SUPERIOR COURT  
OF THE  
STATE OF DELAWARE**

KATHALEEN ST. JUDE  
MCCORMICK  
CHANCELLOR<sup>1</sup>

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August 8, 2023

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Re: *BDO USA, LLP v. JSCo Enterprises, Inc. (f/k/a EverGlade  
Global, Inc.)*, C.A. No. N22C-12-063 KSM CCLD

Dear Counsel:

This letter resolves BDO's request for attorneys' fees and expenses.<sup>2</sup> I assume the reader's familiarity with this action and refer to my January 31, 2023 Memorandum Opinion for the factual background.<sup>3</sup>

In the Memorandum Opinion, I granted BDO's request for fee shifting in connection with EverGlade's spoliation. BDO submitted an affidavit reflecting \$5,236,972.77 in fees

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<sup>1</sup> Sitting as a Judge of the Superior Court of the State of Delaware by special designation of the Chief Justice of the Supreme Court of Delaware pursuant to Del. Const. art. IV § 13(2).

<sup>2</sup> See C.A. No. N22C-12-063 KSM CCLD, Docket ("Dkt.") 12.

<sup>3</sup> See Dkt. 10 (Mem. Op.), *BDO USA, LLP v. EverGlade Glob., Inc.*, 2023 WL 1371097 (Del. Super. Jan. 31, 2023). Undefined terms in this letter decision have the same meaning ascribed to them in the Memorandum Opinion. I refer to EverGlade by its old name rather than "JSCo Enterprises, Inc." for consistency and convenience. See Dkt. 32 (stipulation to amend caption).

and expenses.<sup>4</sup> EverGlade challenges this request as excessive, and requests that I either reject BDO's request entirely or reduce the total award to \$772,391.53.<sup>5</sup>

I have studied the parties' respective arguments regarding the fee and expense amount, and came into the June 30, 2023 oral argument on the subject with an open mind. I am persuaded that there are no grounds for believing BDO's fee request is unreasonable. BDO's billing rates appear consistent with market practice. The total hours worked also appear reasonable, given the amount of effort it took to uncover the spoliation due to EverGlade's obstructive conduct. Although the total amount is high, it is warranted under these extreme circumstances.

I will enter BDO's proposed form of order contemporaneously with this letter decision. I will issue a separate letter addressing outstanding issues argued at the June 30, 2023 hearing.

IT IS SO ORDERED.

Sincerely,

/s/ Kathaleen St. Jude McCormick

Kathaleen St. Jude McCormick

cc: All counsel of record (by *File & ServeXpress*)

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<sup>4</sup> Dkt. 12.

<sup>5</sup> See Dkt. 14 at 1, 10.